

## Yeas—28

Aikin	Nelson
Beck	Pace
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Small
Graves	Spears
Head	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalfe	Weinert
Moffett	Winfield

## Absent

Moore

## Absent—Excused

Hardin Hill

## Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas, February 20, 1939.

Hon. Coke R. Stevenson, President of  
the Senate.

Sir: I am directed by the House to inform the Senate that the House has concurred in Senate Amendments to H. B. No. 228 by a vote of 120 yeas and 0 noes.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

## Adjournment

On motion of Senator Stone of Washington, the Senate, at 11:35 o'clock a. m., adjourned until 10:00 o'clock a. m. tomorrow.

## APPENDIX

## Communication

Galveston, Texas,  
February 16, 1939.

Mr. Bob Barker,  
Austin, Texas.

Dear Mr. Barker:

I thank you very much for the copy of the resolution passed by the

Senate in memory of Pope Pius XI. It is a beautiful tribute, and I am going to take the liberty of sending the copy to the Apostolic Delegate, Archbishop Cicognani, who is the Pope's representative in this Country.

I have gotten the resolution out of the papers, which printed it in full. I shall always be grateful for this beautiful tribute of the Senate.

With all good wishes,

Yours faithfully in Christ,

F. C. E. BYRNE,  
Bishop of Galveston.

## TWENTY-FIFTH DAY

(Tuesday, February 21, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called and the following Senators were present:

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalfe	Weinert
Moffett	Winfield

## Absent—Excused

Hardin

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## Leave of Absence Granted

Senator Hardin was granted leave of absence for today, on account of important business, on motion of Senator Shivers.

**Reports of Standing Committees**

Senator Aikin submitted the following report of the Committee on Education:

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

H. C. R. No. 27, Opposing resolution pending in Congress relative to title to submerged coastal lands.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Education, to whom was referred

S. B. No. 185, a bill to be entitled "An Act to extend to August 31, 1939 all provisions relative to the expenditure of funds already collected under the provisions of S. B. No. 47 Acts 1937, Forty-fifth Legislature, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

Senator Moore submitted the following report of the Committee on Game and Fish:

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

S. B. No. 155, A bill to be entitled "An Act providing that it shall be unlawful to hunt, take, kill, pursue, catch, possess, buy or sell any game bird, game animal, fish, shrimp, oyster, crabs, diamond back terrapin, fur-bearing animal, or attempt to do so by any means, method or device, other than such as may hereafter be permitted; repealing all laws relating

thereto, excepting certain laws, etc., and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

MOORE, Chairman.

**Senate Bills on First Reading**

The following bills were introduced, read severally first time, and referred to the committees indicated:

By Senator Stone of Washington:

S. B. No. 209, A bill to be entitled "An Act amending Chapter 49 of the General and Special Laws of the Third Called Session of the Forty-third Legislature being H. B. No. 65, page 100 of the General and Special Laws of the Third Called Session of the Forty-third Legislature, making it unlawful to kill wild fox, or to take or have in one's possession for barter or sale the pelts of wild fox, in certain counties; providing a penalty for violation of this Act, and declaring an emergency."

Referred to Committee on Game and Fish.

By Senator Winfield:

S. B. No. 210, A bill to be entitled "An Act to amend Chapter of Title 128 of the Revised Civil Statutes of 1925, so as to provide for dividing Water Improvement District organized or operating under said Chapter, when such Districts are operating under contract with the Department of the Interior of the Government of the United States, into districts for the election of directors thereof; and requiring directors thereof to be owners of land subject to taxation in the district from which they are elected; and to provide for the election of such directors by the vote of the qualified electors of the whole irrigation district; and to provide penalties if any person shall fail or refuse to pay the taxes or water charges imposed upon him, or upon his property, and declaring an emergency."

Referred to Committee on Mining, Irrigation and Drainage.

By Senator Winfield:

S. B. No. 211, A bill to be entitled "An Act making an emergency appropriation for the balance of the fiscal year ending August 31, 1939,

to pay the salary and necessary traveling, engineering, clerical and miscellaneous expenses of the Rio Grande Compact Commissioner for Texas in connection with the negotiation, administration and enforcement of the permanent Rio Grande Compact between the States of Texas, Colorado and New Mexico; and declaring an emergency."

Referred to Committee on Finance.

By Senator Metcalfe:

S. B. No. 212, A bill to be entitled "An Act creating the Lower Concho River Water and Soil Conservation Authority as a body politic and corporate, defining its boundaries, specifying its powers and duties; providing for its officers and amount and manner of compensating the same, and their duties and powers; providing for the issuance of bonds and the payment thereof; providing for the sale of certain properties and the conditions of such sales; providing for accepting aid from and cooperating with the Federal Government, the State Government, and to cooperate and assist other Soil and Water Districts and Associations, organized for Soil and Water Conservation; and for an appropriation, and declaring an emergency."

Referred to Committee on Mining, Irrigation and Drainage.

#### Reports of Standing Committees

Senator Roberts, by unanimous consent, submitted at this time the following reports of the Committee on Finance:

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 22, A bill to be entitled "An Act appropriating the sum of One Million One Hundred and Seventy Three Thousand Three Hundred and Eighty Four (\$1,173,384.00) Dollars as a supplement to the equalization appropriation for the biennium as passed by the Forty-fifth Legislature; providing no school shall benefit hereunder that has paid its public funds to any person for securing legislative aid; providing the funds herein appropriated are to be expended in accordance with the pro-

visions of this Act; providing the funds herein appropriated are to be prorated on a percentage basis to those schools having had payments made on a percentage basis to make the grants of teachers salaries, of high school tuition, and of transportation, and of Vocational Agriculture, Home Economics, Trades and Industries, each as nearly as possible one hundred per cent; providing no school shall receive reimbursement which was not approved for payment at the end of the 1937-1938 fiscal year; providing a penalty for violating the provisions of this Act, setting aside the sum of Twelve Thousand Five Hundred (\$12,500.00) Dollars to the Division of Census for the purpose of checking and making transfers and census; setting aside the sum of Twenty Five Hundred (\$2500.00) Dollars to the Division of Equalization for the purpose of expediting the payments of those funds; providing for the payment of warrants issued for any of the above claims; and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with recommendation that it do pass with committee amendment and be printed.

ROBERTS, Chairman.

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 123, A bill to be entitled "An Act dedicating and establishing the Big Bend National Park in Brewster County, Texas, and defining the area of said park and defining the duties and powers of the Texas State Parks Board in regard thereto, and transferring certain lands belonging to the State Public School Fund to the State of Texas for park purposes only, and providing a consideration therefor, and transferring and conveying certain mineral estates now owned by the State Public School Fund in said area to the State of Texas for park purposes only and providing a consideration for said transfer and conveyance; and authorizing the Board to make exchange of lands previously acquired for park purposes under certain Acts lying outside the area defined by this Act

for land lying within said area and fixing a maximum price that shall be paid by the Board for the purchase of land in said area where said consideration is to be paid out of appropriations from the General Fund of the State, and further providing that all lands acquired by the State for park purposes under Chapter 100, Acts First Called Session, Forty-third Legislature, within said area is to be transferred to the State of Texas for park purposes and to be designated as a part of the land dedicated herein as the Big Bend National Park, and making an appropriation for the carrying out of the provisions of this Act and providing a method for disbursing said appropriation and providing that the United States Government may acquire title to said property within said area and authorizing a conveyance by the State of Texas to the United States Government for park purposes and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with recommendation that it do pass and be printed.

ROBERTS, Chairman.

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 188, A bill to be entitled "An Act to authorize the State Treasurer and the State Comptroller to transfer certain moneys from the General Fund to the Settlement of Estates Fund, and declaring an emergency,"

Have had the same under consideration and I am instructed to report back to the Senate with recommendation that it do pass and be printed.

ROBERTS, Chairman.

Senator Cotten, by unanimous consent, submitted at this time the following report of the Committee on Insurance:

Austin, Texas,  
February 21, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Insurance, to whom was referred

S. B. No. 205, A bill to be entitled "An Act relating to insurance and making it unlawful to engage in the insurance business in Texas, unless same is expressly authorized by the laws of this State; repealing all laws and parts of laws in conflict herewith; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

COTTEN, Chairman.

Senator Moore, by unanimous consent, submitted at this time the following report of the Committee on Game and Fish:

Austin, Texas,  
February 21, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 147, A bill to be entitled "An Act declaring it unlawful to take, hunt, trap, ensnare, kill, or attempt to kill by any means whatsoever any wild deer, buck, doe, fawn, or wild turkey in Palo Pinto County for a period of four (4) years, etc., and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Senator Spears, by unanimous consent, submitted at this time the following reports of the Committee on Criminal Jurisprudence:

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 199, A bill to be entitled "An Act amending Article 827 of the Penal Code of the State of Texas Revised Criminal Statutes of 1925 by adding new provision five so as to include Junior College, College or University students; and declaring an emergency,"

Have had the same under consideration and I am instructed to report

it back to the Senate with the recommendation that it do pass and be printed.

SPEARS, Chairman.

Austin, Texas.  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 131, A bill to be entitled "An Act prohibiting escapes from any jail and providing a penalty, repealing all laws or parts of laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

SPEARS, Chairman.

#### Message from the House

A Clerk from the House was announced by the Doorkeeper, and was recognized by the President, to present the following message:

Hall of the House of Representatives,  
Austin, Texas, February 21, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

H. C. R. No. 45, Inviting Governor A. B. Chandler of the Commonwealth of Kentucky to address a joint Session of the Legislature on Tuesday, February 28, 1939.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Senate Resolution 27

Senator Moore offered the following resolution:

Whereas, The State Highway Department of Texas in the past has issued numbers for passenger vehicles carrying a designation showing the owner of such vehicle to be a State Official; and

Whereas, There is no necessity for such designation and such can serve no useful or legitimate purpose; now, therefore, be it

Resolved by the Senate of Texas, That the Highway Department be requested respectfully not to issue numbers with special designations other than those necessary to properly register the various type of vehicles.

MOORE,  
MOFFETT.

The resolution was read.

Senator Hill moved to refer the resolution to the Committee on Highways and Motor Traffic.

Yeas and nays were demanded, and the motion to refer prevailed by the following vote:

#### Yeas—17

Beck	Lanning
Brownlee	Lemens
Burns	Martin
Collie	Nelson
Cotten	Redditt
Head	Spears
Hill	Stone
Isbell	of Galveston
Kelley	Van Zandt

#### Nays—10

Aikin	Pace
Graves	Roberts
Metcalf	Shivers
Moffett	Sulak
Moore	Winfield

#### Absent

Small	Weinert
Stone	

of Washington

#### Absent—Excused

Hardin

#### Senate Bills on First Reading

By unanimous consent, the following bills were introduced, read severally first time, and referred to the committees indicated:

By Senator Shivers:

S. B. No. 213, A bill to be entitled "An Act providing that it shall be unlawful to take or kill a brown pelican; providing a suitable penalty and declaring an emergency."

Referred to Committee on Game and Fish.

By Senator Head:

S. B. No. 214, A bill to be entitled "An Act amending Article 1645 of

the Revised Civil Statutes of Texas of 1925, as amended by Chapter 15, Acts of the 42nd Legislature, Second Called Session, and as amended by Acts of the Forty-fifth Legislature, First Called Session; by adding thereto Article 1645d 2, fixing the compensation of the County Auditors of every County having a population of not less than forty-nine thousand one hundred (49,100) and not more than fifty-one thousand (51,000) inhabitants, according to the 1930 Federal Census, and prescribing how same shall be paid, repealing all laws in conflict therewith and declaring an emergency."

Referred to Committee on Counties and County Boundaries.

By Senator Redditt:

S. B. No. 215, A bill to be entitled "An Act assenting to the provisions of the Act of Congress entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects and for other purposes," approved September 2, 1937, and declaring an emergency."

Referred to Committee on Game and Fish.

By Senator Pace:

S. B. No. 216, A bill to be entitled "An Act to amend Section 17, House Bill No. 68, Chapter 3, Acts of the Regular Session of the Forty-fourth Legislature, as amended by S. B. No. 332, Chapter 123, Acts of the Regular Session of the Forty-fifth Legislature, so as to extend the time of existence of the Special District Court of Smith County, Texas, and declaring an emergency."

Referred to Committee on Judicial Districts.

#### Senate Concurrent Resolution 10

Senator Winfield offered the following resolution:

Whereas, The National Park Service of the United States has just prepared a relief map displaying the Big Bend area of the State of Texas; and

Whereas, There is now pending before the Legislature of the State of Texas a bill to create a National Park in Texas, known as the Big Bend National Park; and

Whereas, This map will be of great interest to the people of Texas, and particularly to those who visit the Capitol daily, as the same aptly de-

picts the area to be embraced in the proposed National Park; now, therefore, be it

Resolved by the Senate and House of Representatives concurring, The Board of Control be authorized to set aside a suitable place in the rotunda of the Capitol for the purpose of exhibiting this map during this session of the Legislature.

The resolution was read; and by unanimous consent, it was considered at this time and was adopted.

#### Bills Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bills:

H. B. No. 123, "An Act to authorize all independent school districts in certain counties to pay present outstanding legal indebtedness of the said school districts by refunding warrants to bear interest of not more than six (6) per cent per annum, and to be payable out of a portion of the local maintenance taxes; and declaring an emergency."

H. B. No. 228, "An Act authorizing certain cities to issue municipal bonds to fund the deficit in the wages of firemen and policemen of said cities; repealing all laws in conflict herewith, and declaring an emergency."

#### House Concurrent Resolution 45

The following resolution, received from the House today, was laid before the Senate and was read:

H. C. R. No. 45, Inviting Governor Chandler of Kentucky to address a joint session of the Senate and House.

On motion of Senator Van Zandt, the resolution was considered at this time and was adopted.

#### Message from the Governor

The President laid before the Senate, and had read, the following message from the Governor:

To the Members of the Forty-sixth Legislature:

I submit as emergency legislation the subject of abolishing all unnecessary State fund accounts and providing by law a more centralized method of handling State funds.

The funds of the State Govern-

ment are now deposited in 105 different accounts. Some of these separate funds must, of course, be maintained. It would seem that these funds could be divided roughly into the following groups:

Those which the Constitution of the State requires to be maintained; Other funds which must be maintained because of the relationship between the State and the Federal Government.

There are also bond, endowment and investment funds as well as certain law enforcement funds. Based on the study which I have made I believe at least fifty-five (55) of these funds can be abolished. I attach a list of the separate funds which the State is now maintaining, also a list of those which it seems to me should continue to be maintained. The other fund accounts should be abolished.

It seems to me that a bill could be enacted which would increase the efficiency of our system of collecting State taxes, simplify the system of accounts now kept by the State Treasurer, centralize the records of the fiscal affairs of the State in a single office (that of the Comptroller) and at the same time give further protection against loss in collection of State revenues and establish more direct legislative control of public expenditures.

Sound business policy makes necessary that in so far as possible all State revenue be deposited immediately in the State Treasury and paid out only in response to direct legislative appropriation.

I most respectfully urge that your attention be given to this matter as soon as is consistent with careful legislation.

Respectfully,  
W. LEE O'DANIEL,  
Governor of Texas.

#### State Funds Now in Existence

##### Constitutional Funds:

1. Available School.
2. Confederate Pension.
3. Permanent School.
4. Permanent University.
5. Permanent Lunatic.
6. Permanent Blind.
7. Permanent Deaf and Dumb.
8. Permanent Orphan.
9. Teacher Retirement.
10. Rusk State Hospital.

##### Federal Funds:

1. U. S. Public Health.
2. Venereal Diseases.
3. Vocational Education.
4. George-Dean (Education).
5. George Ellzey.
6. Crippled Children.
7. Highway.
8. Unemployment Compensation.
9. Old Age Assistance.
10. Maternal and Child Health.
11. Child Welfare.
12. National Guard.
13. Employment Service.
14. Wichita Falls Building.
15. Rural Sanitation.
16. Vital Statistics.

##### Bond, Endowment and Investment Funds:

1. Relief Bond Sinking No. 1.
2. Relief Bond Sinking No. 2.
3. Relief Bond Sinking No. 3.
4. Relief Bond Sinking No. 4.
5. Texas Relief Bond.
6. County and Road District.
7. Treasurer's Fiscal Agency.
8. University - Medical Branch Endowment.
9. Highway Investment.
10. A. & M. College.
11. Teachers Savings.

##### Tax Law Enforcement Funds:

1. Motor Fuel Tax Enforcement.
2. Motor Fuel Tax Audit.
3. Natural & Casinghead Gas Audit.
4. Cigarette Tax Enforcement.
5. Cigarette Tax Audit.
6. Vending Machine Tax Enforcement.
7. Liquor Tax Enforcement.
8. Liquor Board Confiscation.
9. Boxing and Wrestling Enforcement.
10. Boiler Inspection.

##### Special Funds (Maintained for Boards-Commissions):

1. Gas Utilities.
2. Oil and Gas Enforcement.
3. Citrus Grading.
4. Citrus Inspection.
5. Agricultural Protective.
6. Pure Bred Cotton Seed.
7. Racing.
8. Jack and Stallion.
9. Game.
10. Fish and Oyster.
11. Fish Propagation.
12. Sand, Shell and Gravel.
13. Medical Registration.
14. Dental Registration.

15. Hairdressers & Cosmetologists.
16. Barbers.
17. Texas Prison.
18. Texas Prison Revolving.
19. Professional Engineers.
20. Architects Registration.
21. Compensation Insurance Division.
22. Fire Insurance Division.
23. Insurance Examiners.
24. Insurance Agents License.
25. Motor Vehicle Insurance.
26. Operators & Chauffeurs License.
27. Texas Securities Act.
28. Citrus Fruit Dealers.

## Disbursing Funds:

1. General.
2. State Highway.
3. Available Blind Institute.
4. Available Deaf & Dumb Institute.
5. Available Lunatic Asylum.
6. Available Orphans.
7. Available University.
8. Available A. & M. College.
9. A. & M. College Pure Feed.
10. Text Book.
11. State Parks.
12. Old Age Assistance.
13. Bond Coupon Paying.

## Extra Governmental and Incidental Funds:

1. Upper Colorado River Authority.
2. Medina Lake.
3. Escheated Estates.
4. Unorganized Counties.
5. Special Loan Tax.
6. Special Centennial.
7. Dissolution of Solvent Corporations.
8. Highway Light Testing.

## Tax and Bookkeeping Funds:

1. County Collectors Cash.
2. Highway Motor Fuel.
3. Cigarette.
4. Liquor Board Tax.
5. Liquor Board License.
6. State Old Age Assistance.
7. Gas Utilities.
8. Oil & Gas Enforcement.
9. Oil & Gas Enforcement, Labor Department.

## State Funds Which Should Be Retained

## Constitutional Funds:

1. Available School.
2. Confederate Pension.
3. Permanent School.
4. Permanent University.
5. Permanent Lunatic.

6. Permanent Blind.
7. Permanent Deaf & Dumb.
8. Permanent Orphan.
9. Teacher Retirement.
10. Rusk State Hospital.

## Federal Funds:

1. U. S. Public Health.
2. Venereal Disease.
3. Vocational Education.
4. George-Dean.
5. George Ellzey.
6. Crippled Children.
7. Highway.
8. Unemployment Compensation.
9. Old Age Assistance.
10. Maternal and Child Health.
11. Child Welfare.
12. National Guard.
13. Employment Service.
14. Wichita Falls Building.
15. Rural Sanitation.
16. Vital Statistics.

## Bond, Endowment and Investment Funds:

1. Relief Bond Sinking No. 1.
2. Relief Bond Sinking No. 2.
3. Relief Bond Sinking No. 3.
4. Relief Bond Sinking No. 4.
5. Texas Relief Bond.
6. County and Road District.
7. Treasurer's Fiscal Agency.
8. University - Medical Branch Endowment.
9. Highway Investment.
10. A. & M. College.
11. Teachers Savings.

## Disbursing Funds:

1. General.
2. State Highway.
3. Bond Coupon Paying.

## Extra Governmental and Incidental Funds:

1. Upper Colorado River Authority.
2. Medina Lake.
3. Escheated Estates.
4. Unorganized Loan Tax.
5. Special Loan Tax.
6. Special Centennial.
7. Dissolution of Solvent Corporations.

## Tax &amp; Bookkeeping Funds:

1. General Tax Fund.
2. Highway Motor Fuel.
3. State Old Age Assistance.

(Senator Van Zandt in the Chair)

## S. J. R. No. 6 on Second Reading

The Presiding Officer laid before the Senate, for consideration at this time:



S. J. R. No. 6, Proposing an amendment to the Constitution to the State of Texas amending Section 26 of Article IV so as to provide that notaries public be appointed by the Secretary of State of the State of Texas; providing for the submission of this amendment to the voters of this State; and providing for the necessary appropriation to defray necessary expenses for the submission of this amendment.

The resolution was read second time and was passed to engrossment by the following vote:

Yeas—25

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Collie	Redditt
Cotten	Shivers
Graves	Spears
Head	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Van Zandt
Martin	Weinert
Metcalfe	Winfield
Moffett	

Nays—2

Burns Sulak

Present—Not Voting

Hill

Absent

Roberts Small

Absent—Excused

Hardin

#### Senate Joint Resolution 6 on Third Reading

Senator Moore moved that the rule requiring bills and joint resolutions to be read on three several days be suspended and that S. J. R. No. 6 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Cotten
Beck	Graves
Brownlee	Head
Burns	Isbell
Collie	Kelley

Lanning  
Lemens  
Martin  
Metcalfe  
Moffett  
Moore  
Nelson  
Pace  
Redditt  
Roberts

Shivers  
Spears  
Stone  
of Galveston  
Stone  
of Washington  
Sulak  
Van Zandt  
Weinert  
Winfield

Absent

Hill

Small

Absent—Excused

Hardin

The Presiding Officer laid the resolution before the Senate, on its third reading and final passage.

The resolution was read third time and was passed by the following vote:

Yeas—27

Aikin	Nelson
Beck	Pace
Brownlee	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Spears
Head	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalfe	Weinert
Moffett	Winfield
Moore	

Nays—1

Burns

Absent

Hill

Small

Absent—Excused

Hardin

#### Senate Bill 34 on Engrossment

Senator Redditt called from the table, on its passage to engrossment (the bill having been read second time and tabled subject to call on February 14, 1939):

S. B. No. 34, A bill to be entitled "An Act to amend Article 1379 of the Penal Code of the State of Texas, so as to increase the penalty from a fine of not less than ten nor more than five hundred dollars, to confinement in

the penitentiary for not less than one nor more than five years, and declaring an emergency."

The Presiding Officer, without objection, laid the bill before the Senate on its passage to engrossment.

Senator Redditt offered the following amendment to the bill:

Amend S. B. No. 34 by adding before the word "timber" wherever same appears in this Act the word "merchantable."

The amendment was adopted.

The bill was passed to engrossment.

#### Senate Bill 34 on Third Reading

Senator Redditt moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 34 be placed on its third reading and final passage.

The motion prevailed by the following vote:

#### Yeas—25

Beck	Nelson
Brownlee	Redditt
Burns	Roberts
Collie	Shivers
Cotten	Spears
Graves	Stone
Head	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Metcalf	Weinert
Moffett	Winfield
Moore	

#### Nays—2

Aikin	Martin
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#### Absent

Hill	Small
Pace	

#### Absent—Excused

Hardin

(President in the Chair.)

The President then laid S. B. No. 34 before the Senate on its third reading and final passage.

The bill was read third time.

Question—Shall the bill be passed?

Yeas and nays were demanded, and the bill was passed by the following vote:

#### Yeas—15

Beck	Moore
Burns	Pace
Collie	Redditt
Cotten	Shivers
Graves	Stone
Head	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	

#### Nays—12

Aikin	Nelson
Brownlee	Roberts
Lemens	Spears
Martin	Sulak
Metcalf	Van Zandt
Moffett	Weinert

#### Absent

Hill	Winfield
Small	

#### Absent—Excused

Hardin

#### Senate Bill 135 on Second Reading

Senator Moore moved that the rule relative to the consideration of general bills during the first 60 days of the Regular Session of the Legislature be suspended and that S. B. No. 135 be considered by the Senate at this time.

The motion prevailed by the following vote:

#### Yeas—28

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Spears
Head	Stone
Isbell	of Galveston
Kelley	Stone
Lanning	of Washington
Lemens	Sulak
Martin	Van Zandt
Metcalf	Weinert
Moffett	Winfield

#### Absent

Hill	Small
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#### Absent—Excused

Hardin

The President laid before the Senate, on its second reading and passage to engrossment:

S. B. No. 135, A bill to be entitled "An Act further regulating all life, health and accident assessment insurance companies or associations or burial societies, repealing conflicting laws, authorizing the Board of Insurance Commissioners to limit the use of names, and to pass upon the worthiness of officers; requiring bonds of all employees having access to moneys; requiring deposits and limiting advertisements thereof; providing for keeping rosters and records of clubs, classes or groups, and prohibiting transfer of members, classes or groups to other associations or to other classes or groups without the approval of the Board; requiring the keeping of adequate records satisfactory to the Board; prescribing the contents and form of applications and certificates, and renewal thereof; and limiting the amount of risk on any one life to Three Thousand Dollars (\$3,000.00); providing for regular and extra assessments, the separation of funds, limitation of expense and use of such funds; requiring full payment of claims, regulating contested claims; authorizing appointment of conservator and rehabilitation of associations; especially interpreting health and accident provisions, giving the Board authority to promulgate reasonable rules and regulations to carry out the purposes of this Act, preserving constitutionality, fixing an effective date; and declaring an emergency".

The bill was read second time.

Senator Moore offered the following amendment to the bill:

Amend S. B. 135 by striking out all below the enacting clause and inserting in lieu thereof the following:

Section 1. Scope of Act. This Act shall apply to and embrace all insurance companies and associations, whether incorporated or not, which issue policies or certificates of insurance on the lives of persons, of provide health and accident benefits, upon the so-called mutual assessment plan, or whose funds are derived from the assessments upon its policyholders or members, and shall, in fact, apply to all life, health and accident companies or associations which do not come within the provisions of

Chapter 3, Chapter 5, Chapter 7, Chapter 8, Chapter 9, Chapter 18, Chapter 19, or Chapter 20, Title 78, of the Revised Civil Statutes of Texas. This Act shall include local mutual aid associations, statewide assessment life companies, mutual assessment health and accident associations, burial associations, or similar concerns by whatsoever name or class designated.

This Act does not enlarge the powers or rights of any of such associations nor enlarge the scope of their legal or corporate existence; nor authorize the creation of any association or corporation to do any of the sorts of business above indicated, where such creation is not now specifically permitted by law. The laws prohibiting or limiting such creation and the exercise of corporate power are not affected by this Act.

The provisions of this Act shall govern the acts and conduct of such associations insofar as same are specifically covered hereby; and all laws and parts of laws in conflict herewith are hereby repealed; while as to provisions of laws not in direct conflict herewith, this Act shall be merely cumulative.

Sec. 2. Definitions. The following terms when used in this Act shall be defined:

"Association" shall refer to and include all types of organizations, corporations, firms, associations, or groups subject to the provisions of this Act.

"Board" shall refer to the Board of Insurance Commissioners of the State of Texas.

"Member" shall include policyholders or any persons insured by an association, by whatsoever means the insurance may be effective.

"Certificate" shall include any insurance policy or contract of insurance, certificate of membership or other document through which insurance is effected or evidenced.

"Face of certificate" shall refer to the maximum amount of promised benefits, as shown on the certificate.

"Paid in full" or "full payment" shall mean the payment of the full amount of maximum benefit due on the happening of the contingency insured against.

"Insolvent" shall refer to and include any condition or situation which is so designated herein and which is violative of the provisions of this law.

"Assessment" shall include premiums and mean any and all money or valuable thing paid in consideration of such insurance as is afforded by the certificate.

Sec. 3. Names of Associations. Upon application for charter to do business in Texas the Board of Insurance Commissioners may determine whether the name of the association would be confusing and misleading to the public; if so, it may refuse the certificate or charter, and prohibit the doing of business under the name.

Any amendment to the charter of an association operating under this Act changing the name of the association must be submitted to the Board of Insurance Commissioners for approval; and the charter of any association operating under this Act may not be amended to provide for changing its name to a name that is determined by the Board of Insurance Commissioners to be confusing and misleading to the public.

Sec. 4. Officers of Associations. The Board of Insurance Commissioners shall not issue to any association a certificate of authority to do business in Texas, when it shall find any officer, employee, or member of the board of directors to be unworthy of the trust or confidence of the public. After a certificate has been granted, the Board shall order the removal of any officer, employee, or director found unworthy of the trust, and if such officer, employee, or director be not removed the Board shall cancel the certificate and proceed to deal with the association as though it were insolvent.

Sec. 5. Bonds of Employees. In addition to bonds now required by law of its officers, each association must procure for all other employees, or other persons who may have access to any of its funds, separate bonds or blanket bonds with some surety authorized to do business in Texas in the sum of at least One Thousand (\$1,000.00) Dollars, payable to the Board of Insurance Commissioners for the use and benefit of the association obligating the principal and surety to pay such pecuniary loss as the association shall sustain through acts of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or wilful misapplication on the part of such persons, either directly and alone, or in connivance with others. Successive re-

coveries may be had on such bonds until same are exhausted.

Sec. 6. Deposits. Each association, not already required by existing laws to do so, shall place with the State Treasurer through the Board of Insurance Commissioners a deposit equal to the largest risk assumed on any one life or person, which may be in cash or in convertible securities subject to approval by the Board. Such deposit shall be liable for the payment of all judgments against the association and subject to garnishment after final judgments against the association. When such deposit becomes impounded or depleted it shall at once be replenished by the association, and if not replenished immediately on demand by the Board, the association may be regarded as insolvent and dealt with as herein-after provided.

When any association shall desire to state in advertisements, letters, literature or otherwise, that it has made a deposit with the Board as required by law, it must also state in full the purposes of the deposit, the conditions under which it is made, and the exact amount and character thereof.

Sec. 7. Membership. Each association shall keep a complete and correct roster of its members with proper statistical records for the purpose of determining proper cost of insurance, by ages or otherwise, and shall keep accurate records of groups, classes or clubs or other division of memberships, if any, and shall keep records to show amounts paid in on assessments by each member and each group, and as to groups must show how the funds are distributed between expense and mortuary or relief funds, and showing the amounts paid out of the funds of the whole membership or each group in death claims or other benefits.

The associations subject to this law are hereby expressly prohibited from merging with another association, are prohibited from "transferring" any part or group of membership, or all the membership to another association, or from merging groups or transferring members from one group to another in an association without the consent in advance of the Board of Insurance Commissioners which may be given only after complete investigation into the facts and determination that such transfer is to the advantage of all members of the

associations or groups to be affected.

Sec. 8. Books and Records. All the records and books of each association shall be kept in the shape, form and manner acceptable to the Board, and if such records and books of any association are kept in such manner as not to reflect truly and accurately the condition of the association, or the facts essential to its faithful and effective operation the association shall at once adopt forms or systems acceptable to the Board which will serve the purpose most effectively.

Sec. 9. Policies or Certificates. Every policy or certificate of insurance issued by an association shall state definitely on the front page the amount of benefit to be paid; and the circumstances or conditions under which it will be paid shall be plainly stated in the policy.

An application for each certificate must be signed by the applicant, unless the applicant is a minor, in which event the application may be signed by a parent or guardian, and a copy thereof must be attached to and made part of such certificate. If the certificate is to provide that misstatement as to the health or physical condition of the applicant may void the policy, the application shall so state in language acceptable to the Board in not less than ten point type. All statements on the application shall in the absence of fraud be regarded as representations and not warranties.

All conditions of the certificate must be stated thereon, including such portions of the by-laws of the association as may affect the insurance rights of the parties in any material way; and amendments to the by-laws which might affect such rights of members must forthwith be mailed by first-class mail to each certificateholder affected. In case of controversy the burden of proof shall be on the company to prove the amendment was mailed to the member. Each certificate must provide that it shall be incontestable, after having been in force during the lifetime of the insured for a period of two years from date of issue, except for non-payment of assessments. It shall also provide that in case the age of the insured is misstated, the amount of insurance shall be that which the premium actually paid would purchase at the correct age. No certificate issued by such associa-

tion, nor any application for the certificate shall contain language or be in such form as to mislead the applicant or the policyholder as to the type of insurance afforded.

It shall be unlawful for any association to assume liability on a life insurance risk on any one life in an amount in excess of Five Thousand (\$5,000.00) Dollars.

Every certificate issued must be approved by the Board as to form and language before it is used by an association. It is not mandatory that these forms be uniform for all associations but the Board is directed to bring about as great uniformity as is feasible as early as practicable by cooperation with the several associations. All certificate forms hereafter used must be in accord with the provisions of this Act and with all other laws regulating such associations as are embraced in this Act.

It will not be required that an association call in and reissue outstanding certificates if upon proper application to the Board, and if special permission is granted by the Board, it shall by appropriate resolution or other action declare that claims and other obligations on outstanding certificates will be settled and met as though the requirements of this Act were contained in such certificates; and provided further that the association acts accordingly.

Sec. 10. Renewals of Certificates. In case a certificate shall terminate for any reason, and in case it shall be a rule of the association that all reinstated certificates shall be regarded as new certificates, then the application for reinstatement shall carry the statement in at least ten point type that the same rules apply to it as to the original certificate, and that it can be invalidated for false statements respecting the health or physical condition of the applicant, or other matters material to the certificate. A true and correct copy of the application for reinstatement shall be mailed by first-class mail to the certificateholder upon the reinstatement of the certificate. In case of controversy the burden of proof shall be on the association to prove the copy of reinstatement application was mailed to the member. In the event a renewal certificate is issued, such renewal certificate shall have a copy of the application for reinstatement attached and made a part thereof.

It is specifically provided, however,

that in case an association shall renew or reinstate a certificate after termination, the payments by the reinstated member shall be divided between the funds in the same percentage as is required of regular payments in the particular by-laws, unless nine months have elapsed between termination and reinstatement. If nine months have elapsed between termination and reinstatement, a reinstatement fee not in excess of the membership fee may be charged and placed in the expense fund. Furthermore, in case of renewal or reinstatement the renewal or reinstatement certificate shall not be contestable for any cause except non-payment of assessments for longer than six months from date thereof, unless the reinstatement or renewal is within the original two year contestable period, in which case the same may be extended for six months from the date on which it would have originally expired.

Sec. 11. Assessments. Each association shall levy regular and periodical assessments by whatever name they may be called. These assessments must be in such amounts and at such proper intervals as will meet the reasonable operating expenses of the association, and pay in full the claims arising under its certificates. When or if in the course of operation it shall be apparent that the claims cannot be met in full from current assessments and funds on hand, the amount must be increased until they are adequate to meet such claims, and the Board shall so order.

When any association shall refuse to comply with the Board's recommendations or requirements respecting rates of assessments, it shall be treated as insolvent, and shall be dealt with as is hereinafter provided.

Each association operating under the provisions of this Act shall file its rate schedules with the Board of Insurance Commissioners.

Sec. 12. Funds. Assessments when collected shall be divided into at least two funds. One of these shall be the mortuary or relief fund—by whatever name it may be called in the different associations—from which claims under certificates shall be paid, and to a limited extent the cost of defending contested claims, and reinsurance premiums, and nothing else; and the other funds shall be the expense funds from which expenses may be paid. The mortuary or relief funds

may be invested only in such securities as are a legal investment for the reserve funds of stock life insurance companies.

Such association shall provide in its by-laws for the portion of its assessments to be allotted to the mortuary or relief fund and may provide for the payment out of said mortuary or relief fund of reinsurance premiums and all attorneys' fees and necessary expenses arising out of the defense, settlement, or payment of contested claims. Any such payments out of the mortuary or relief fund for other than claims shall be subject to approval of the Board of Insurance Commissioners.

A separate record shall be kept of the mortuary or relief funds of each group, club, or class, and the mortuary or relief funds of one group, club, or class shall not be used to pay the claims or obligations of any other group, club, or class.

Sec. 13. Payment of Claims. It is the primary purpose of this Act to secure to the members of the associations and their beneficiaries the full and prompt payment of all claims according to the maximum benefit provided in their certificates. It is therefore required of all associations that all claims under certificates be paid in full within sixty days after receipt of due proof of claims.

Written notice of claim given to the association shall be deemed due proof in the event the association fails upon receipt of notice to furnish the claimant within fifteen days such forms as are usually furnished by it for filing claims.

Any association which shall become unable to pay its valid claims in full within sixty days after due proofs are received shall for the purpose of this Act be regarded as insolvent, and dealt with as is more fully provided hereinafter.

Sec. 14. Contests. It shall not be unlawful for an association to contest claims for valid reasons, but claims may not be contested for delay only or for captious or inconsequential reasons, or to force settlement at less than full payment. Therefore if liability is to be denied on any claim, the association is hereby required to notify the claimant within sixty days after due proofs are received that the claim will not be paid, and failing to do so it will be presumed as a matter of law that liability has been accepted.

The Board shall cancel the certificate of authority of any association found to be operating fraudulently or improperly contesting its claims.

Reports regarding the cost of contests must be made under oath of an officer of the association, with the annual report of all associations to the Board.

Sec. 15. Assessment - as - needed Groups. The provisions of this Act requiring the full payment of claims shall not apply to any group, club, or class previously organized and now operating on the post-mortem or assessment-as-needed plan and any association having such a group, club, or class may continue to operate it on said plan so long as any such group, club, or class has a sufficient membership at the assessment rate charged to produce and so long as it does produce for the mortuary or relief fund at least 50% of the maximum value of the largest policy in said group, club, or class. In the event the membership of any group, club, or class is only sufficient in number to pay between 50% and 100% of the maximum value, it shall be the duty of the officers of said association to have printed on each assessment notice the percentage of the maximum value of the certificate actually paid on the last death claim in said group, club, or class. Provided further that no association and no group, club, or class in any association shall hereafter be organized to operate on the post-mortem or assessment-as-needed plan.

If on any assessment the amount realized is not sufficient to pay fifty per cent of the face of the certificate, the association shall be deemed insolvent and dealt with as hereinafter provided.

No post-mortem or assessment-as-needed group shall have a membership in excess of 2,000 members unless such group is now in operation with a larger membership, and any group now operating with a membership in excess of 2,000 is expressly prohibited from increasing the membership at any time beyond the present number.

Sec. 16. Creation of New Groups. In the creation of a new group, class, or club, an association may have six (6) months from the date of its creation within which to build said group, club or class up to the required membership to pay claims in full provided in the interim the certificates pro-

vide for no more than a \$500.00 benefit; or provided the association has funds out of which it may lawfully make and actually does make the full payment of benefits in the interim.

Sec. 17. Payments on Certificates Already in Force. If the payments of the members of any association coming within the scope of this Act, on certificates issued and in force when this Act takes effect, or renewals of such certificates, shall prove insufficient to pay matured death and disability claims in the maximum amount stated in such policies or certificates, and to provide for the creation and maintenance of the funds required by its laws, such association may with the approval of the Board of Insurance Commissioners and after proper hearing before said Board provide for meeting such deficiency by additional, increased, or extra rates of payment, or by reduction in the maximum benefits stated in such policies or certificates then in force, or by both such increased payments and reduced maximum benefits, or the members may be given the option of agreeing to reduced maximum benefits or of making increased payments.

Sec. 18. Amending By-laws. By-laws of any association may be amended by a majority of the members of the association present when ratified by the Board of Directors, but only at meetings called for that purpose, or at regular meetings. Amendments to the by-laws shall not be effective until approved by the Board of Insurance Commissioners. Notices of all meetings, whether regular or special, at which amendments to by-laws will be considered, must be mailed to all members. Such notices must contain full copies of the proposed changes in the by-laws and fair explanations of the intent and effect thereof.

Sec. 19. Conservator. If, upon an examination, or at any other time, it appears to the Board of Insurance Commissioners that such association be insolvent, or if its condition be, in the opinion of the Board, such as to render the continuance of its business hazardous to the public, or to holders of its certificates, or if such association appears to have exceeded its powers or failed to comply with the law, then the Board, acting for itself, or through the appointment of a conservator for that purpose,

shall immediately take charge of such association, and all of the property and effects thereof. If the Board is satisfied that such association can best serve its policyholders, and the public, through its continued operation by the conservator under the direction of said Board, pending the election of new directors and officers by the membership in such manner as the Board may determine, the same shall be done. If the Board, however, is satisfied that such association is not in condition to satisfactorily continue business in the interest of its policyholders under the conservator as above provided, the Board shall proceed to reinsure the outstanding liabilities in some solvent association, or company, authorized to transact business in this State, or the Board shall proceed, through its conservator, to liquidate such association, or the Board may give notice to the Attorney General as provided under the general laws relating to insurance corporations. Provided, however, that it shall be in the discretion of the Board to determine whether or not it will operate the association through its conservator, or proceed to liquidate the association, as herein provided, or report it to the Attorney General. Provided further, that when the liabilities of an association are reinsured, or liquidated, as herein provided, that the Board shall report the same to the Attorney General who shall take such action as may be necessary to effect the forfeiture or cancellation of the charter of the association so reinsured or liquidated. Provided, also, that where the Board lends its approval to the merger, transfer or consolidation of the membership of one association with that of another, the same shall reported to the Attorney General who shall proceed to effect the forfeiture or cancellation of the charter of the association from which the membership was merged, transferred, or consolidated, in the same manner as is provided for the charters of associations reinsured or liquidated. The cost incident to the conservator's services shall be fixed and determined by the Board and shall be a charge against the assets of the association to be allowed and paid as the Board may determine.

Sec. 20. Special Disability Provision. If any of the provisions of this Act may appear obscure when

applied to health, accident or disability provisions in certificates which some associations subject hereto may be authorized to write, then the Board is directed to interpret same in accord with the expressed purpose and spirit of the Act looking to the full payment of claims and at the same time preserving to members the benefit of the protection afforded by such associations.

Sec. 21. That Section 29, Chapter 274, Acts Forty-first Legislature, 1929 (p. 563) be and the same is hereby repealed, in so far as same is in conflict with the provisions hereof relative to Burial Associations.

Sec. 22. That part of Section 6, Chapter 245, Acts Forty-third Legislature as amended by Chapter 257, Acts of Forty-fifth Legislature, exempting from its provisions any corporation, association, or partnership, individual, or joint stock company engaged in the undertaking business, or to any advertising corporation, association, and/or partnership, individual, or joint stock company with whom they have contracts, be and the same is hereby repealed.

Sec. 23. Burial Associations. Burial associations now operating shall hereafter comply with and operate under the provisions of Chapter 274, Acts Forty-first Legislature, 1929, and amendments thereto as well as the provisions of this Act. Any person or persons, desiring to organize and operate a burial association shall do so in compliance with the provisions of said Chapter 274, Acts Forty-first Legislature, and amendments thereto, and be governed by the provisions of that Chapter and this Act.

Sec. 24. Benefits Not Payable in Merchandise or Services. Associations operating under the provisions of this Act shall pay policy benefits in cash, and shall not pay such benefits in merchandise or services.

Sec. 25. Rules and Regulations. The Board is hereby authorized to promulgate reasonable rules and regulations to carry out the purposes of this Act.

Sec. 26. Effective Date. Associations shall have until January 1, 1940, to bring themselves to full compliance with this law in all particulars. By such date, in the event they shall not have done so they shall be regarded as insolvent as provided herein, and dealt with ac-



cordingly. It is specially provided that if associations cannot so arrange their affairs to make full payment of claims as herein required by such date they may reduce the face amounts of the outstanding certificates by appropriate action having the approval of the Board, so as to make possible full payment of claims. All members must be given prompt notice of such amendment of such certificates.

Sec. 27. Constitutionality. The provisions of this Act are severable, and in the event the courts declare any part of it unconstitutional, the other provisions of the Act shall nevertheless remain in full force.

Sec. 28. Emergency Clause. The fact that the present laws governing life, health and accident assessment insurance do not adequately protect the members from loss through unwholesome, unsound or fraudulent practices, and the Board of Insurance Commissioners is not empowered to safeguard the public interest, and the immediate necessity for remedying the situations create an emergency and an imperative public necessity that the Constitutional Rule which requires that bills be read on three several days in each House, and the Constitutional Rule requiring bills to go into effect ninety days from and after their passage, be, and the same are hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Senator Moore and by unanimous consent, a full reading of the amendment was omitted.

Senator Moore offered the following amendment to the amendment:

Amend Senate Bill 135, Section 9, by striking out the first paragraph of Section 9 and substituting in lieu thereof the following:

Section 9. Policies and Certificates. Every policy or certificate of insurance issued by an association shall state definitely on the front page the amount of death benefit to be paid, and the circumstances or conditions under which it shall be paid shall be plainly stated in the policy. Every health, accident or other benefit shall be plainly stated in the policy and the terms and conditions under which they shall be paid shall be stated plainly in the policy.

The amendment to the amendment was adopted.

Senator Aikin offered the following amendment to the amendment:

Amend substitute for S. B. No. 135 by adding at the end of Section 9 the following:

Provided further that any certificate or policy issued by any association or company affected by the terms of this Act shall be a contract between association or company, and the insured.

The amendment to the amendment was adopted.

(Senator Weinert in the Chair.)

Question—Shall the amendment by Senator Moore be adopted?

#### Recess

Senator Stone of Washington moved that the Senate recess to 10:00 o'clock a. m. tomorrow.

The motion prevailed; and the Senate, accordingly, at 12:10 o'clock p. m., took recess to 10:00 o'clock a. m. tomorrow.

#### APPENDIX

##### Reports of Committee on Enrolled Bills

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 105 and S. B. No. 168 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,  
February 16, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 5 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

### Reports of Committee on Engrossed Bills

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. J. R. No. 3 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

Austin, Texas,  
February 20, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bills Nos. 102, 128, 129, 160, and 180 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

### TWENTY-FIFTH DAY

(Continued)

(February 22, 1939)

The Senate met at 10:00 o'clock a. m. and was called to order by the President.

### Senate Bill 135 on Engrossment (Pending Business)

The Senate resumed consideration of pending business, same being S. B. No. 135, regulating assessment life, health and accident insurance companies and associations, on its passage to engrossment, with amendment by Senator Moore pending.

Question—Shall the amendment be adopted?

Senator Metcalfe offered the following amendment to the amendment:

Amend S. B. No. 135, page 5, line 22, by striking out the period after the word "age" in said line and insert in lieu thereof the following: ", based on rates in force at the time of the death of the insured."

The amendment to the amendment was adopted.

Senator Metcalfe offered the following amendment to the amendment:

Amend S. B. No. 135, page 9 by striking out the last paragraph of section 15.

The amendment to the amendment was adopted.

Senator Metcalfe offered the following amendment to the amendment:

Amend S. B. No. 135, page 10, Section 19, by inserting after the word "Board" in line seven of said section, the following: "shall notify the association of its determination and said association shall have fifteen days within which to comply with the requirements of the Board, and in the event of its failure to so comply within such time, the Board"

The amendment to the amendment was adopted.

Senator Stone of Galveston offered the following amendment to the amendment:

Amend the substitute for S. B. No. 135 by adding the following at the end of the first paragraph of Sec. 14:

"If the Association does not notify the claimant within sixty (60) days after due proofs are received that the claim will not be paid and does not pay said claim in full within said sixty (60) days, as provided in Sec. 13, such association shall be liable to pay the holder of such claim, in addition to the full amount of the claim, 12 per cent damages on the amount of such claim, together with reasonable attorney's fees for the prosecution and collection of such claim. Such attorney's fees shall be taxed as a part of the costs in the case. The court, in fixing such fees, shall take into consideration all benefits to the insured incident to the prosecution of the suit accrued and to accrue on account of such claim."

The amendment to the amendment was adopted.

Senator Brownlee offered the following amendment to the amendment:

Amend substitute to S. B. No. 135 by adding thereto immediately after Section No. 25 a section to be numbered Section 25(a) to read as follows:

"Sec. 25(a). Provided that nothing in this act shall ever be construed to include or affect in any manner mutual fire insurance companies."